

REMARKS

Claims 1-20 are pending in this application. By this Amendment, claim 6 is amended.

Entry of the Amendment is proper under 37 CFR §1.116 since the Amendment: (a) places the application in condition for allowance for the reasons discussed herein; (b) does not raise any new issue requiring further search and/or consideration; (c) satisfies a requirement of form asserted in the previous Office Action; (d) does not present any additional claims; and (e) places the application in better form for appeal, should an appeal be necessary. Entry of the Amendment is thus respectfully requested.

Applicant thanks the Examiner for the indication that claims 3, 4, 6, 11 and 17 contain allowable subject matter and would be allowable if rewritten in independent form including all of the features of the base claim.

The arguments presented in the November 12, 2003 Amendment are hereby incorporated by reference in their entirety.

I. The Claims Satisfy All Formal Requirements

The Office Action objects to claim 6 because of informalities.

In accordance with the Office Action's suggestion, the phrase "the area" found in claim 6, line 3, has been amended to recite "an area of the memory". Accordingly, withdrawal of the objection to claim 6 is respectfully requested.

II. The Drawings Satisfy All Formal Requirements

The Office Action objects to Fig. 13 because Fig. 13 is not labeled "Prior Art". The Office Action asserts that this label is required in order to correspond the material of Fig. 13 with that found in the "Background of Art" section of the specification.

As discussed in the December 18, 2003 personal interview, the March 2, 2004 telephone interview, and asserted in the Amendment filed November 12, 2003, Fig. 13 does

not constitute prior art under any of the subsections of 35 U.S.C. §102. Specifically, 35 U.S.C. §102 states that:

"[a] person shall be entitled to a patent unless (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent" (emphasis added).

Thus, prior art requires knowledge or use by others in this country, or patented or described in a printed publication in this or a foreign country. It is respectfully submitted that, although some of the information which is shown in Fig. 13 is described as "conventional" on page 1 of the specification, there is no admission that Fig. 13 is "prior art" under §102.

Moreover, the Patent Office has failed to put forth any evidence establishing that the information described as "conventional" in the specification was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the Applicant.

Furthermore, assuming arguendo, that some of the information which is shown in Fig. 13 and described as "conventional" on page 1 of the specification is prior art in Japan, there is no admission such information is "prior art" under §102. MPEP §2132 states that prior knowledge or use which is not present in the United States, even if widespread in a foreign country, cannot be the basis of a rejection under §102(a). Thus, since the Applicant is a Japanese citizen, and this application claims priority to applications filed in Japan, it is respectfully submitted that the information which is described as "conventional" on page 1 of the specification is not prior art under §102.

As further evidence submitted to support the arguments presented above, the Applicant submitted an Affidavit on January 13, 2004, stating that he is not aware of any instance of the art described in the patent application as "conventional" that qualifies as

statutory prior art in the United States under 35 U.S.C. §102. A copy of the Affidavit is attached for the Patent Office's convenience.

Thus, it is respectfully submitted, that the information which is described on page 1 of the specification as "conventional" does not qualify as prior art under §102. As such, the objection to Fig. 13 should be withdrawn.

III. The Affidavit is Sufficient to Overcome the Prior Art Rejection

The Office Action appears to assert that the Affidavit, on its own, would not be sufficient to overcome the prior art rejection; however, that the Affidavit with a certified translation of the application from a translator, indicating that a translation error had occurred, might be sufficient to overcome the prior art rejections.

As discussed above, it is respectfully submitted, that a certified translation from the translator of the original foreign priority application is not necessary because the information which is described as "conventional" on page 1 of the specification, is not prior art under any of the subsections of §102. Thus, it is respectfully submitted, that an Affidavit is not required to overcome the Office Action's prior art objection and rejections. As discussed above, the Affidavit was submitted as further evidence that the information described is not prior art under §102. Thus, it is respectfully submitted that the Affidavit is sufficient to overcome the prior art rejection.

IV. The Claims Define Allowable Subject Matter

The Office Action rejects claims 1, 2, 5 and 7 under 35 U.S.C. §102(a) as being anticipated by Applicant's admitted prior art (AAPA); and claims 8, 9 and 13 under 35 U.S.C. §103(a) as being unpatentable over AAPA in view of Handy ("The Cache Memory Book"). These rejections are respectfully traversed.

As discussed above with respect to the objection to Fig. 13, although some information is described as being "conventional" on page 1 of the specification, there is no

admission that any disclosure in the application is "prior art" under any of the subsections of §102. Furthermore, as indicated in the Affidavit, the Applicant is unaware of any instance of the art described in the patent application as "conventional" that was published, on sale, or publicly used in a manner that would constitute prior art under §102. Thus, since no concession has been made of any disclosure being statutory prior art, it is respectfully submitted that the Patent Office has improperly relied on the disclosure of the application as prior art in the rejection.

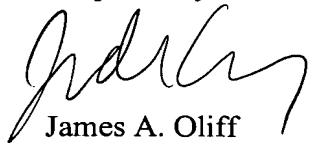
Thus, because the AAPA is not prior art, and none of the remaining applied art discloses all of the features of the present invention, it is respectfully submitted that the claims are distinguishable over the applied art. Accordingly, withdrawal of the rejections under 35 U.S.C. §§102 and 103 is respectfully requested.

I. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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JAO:JLC/cmf

Attachment:
Copy of Affidavit

Date: May 10, 2004

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